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*Plaintiffs Alex Soto and Vince Eagen*

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12  
13 **UNITED STATES DISTRICT COURT**  
14 **NORTHERN DISTRICT OF CALIFORNIA**

15  
16 ALEX SOTO and VINCE EAGEN, on  
17 behalf of themselves and all others  
18 similarly situated,

19 Plaintiffs,

20 v.

21 AMERICAN HONDA MOTOR CO.,  
22 INC.,

23 Defendant.

Case No. 3:12-cv-01377-SI  
(Hon. Susan Illston)

24  
25 **FIRST AMENDED**  
26 **CLASS ACTION COMPLAINT**

27 Complaint Filed: Mar. 19, 2012  
28 Trial Date: None set

**DEMAND FOR JURY TRIAL**

1 Plaintiffs Alex Soto and Vince Eagen, on behalf of themselves and all others  
2 similarly situated, allege as follows:

3 **NATURE OF THE CASE**

4 1. The 2008, 2009, and 2010 Honda Accord vehicles (the “Class Vehicles”)  
5 suffer from a systemic design defect that enables oil to enter into the engine’s combustion  
6 chamber. This defect is present when the vehicles are sold and manifests prior to the  
7 expiration of the Class Vehicles’ warranty periods, causing excessive oil consumption,  
8 premature spark plug degradation, and engine malfunction.

9 2. Oil is necessary to lubricate moving engine parts and flows freely through the  
10 Class Vehicles’ engines. However, there are certain areas of the engines—notably, the  
11 combustion cylinders—in which oil must not intrude in significant amounts in order for  
12 the engines to function properly and for the oil level to remain sufficient to lubricate the  
13 engines’ moving parts.

14 3. The systemic design defect may be the result of a defect in material or  
15 workmanship of the Class Vehicles’ valve guide seals or piston rings (another type of  
16 seal). Each of these seals is meant to keep oil out of the combustion cylinder.

17 4. Alternatively, the defect may stem from a flaw in Honda’s VTEC variable  
18 engine-timing system that improperly allows oil to flow into the engine’s combustion  
19 cylinders.

20 5. Hundreds of complaints concerning this defect appear online, including at  
21 least 130 complaints on *www.carcomplaints.com* referencing the 2008 Accord alone.  
22 Numerous complaints are available on other websites too, including the complaints forum  
23 of the National Highway Traffic Safety Administration’s (“NHTSA”) website.

24 6. As a result of Honda’s practices, Plaintiffs and the other members of the  
25 proposed class have suffered injury-in-fact, including economic damages, and have lost  
26 money or property. Plaintiffs bring claims for violations of the Consumers Legal  
27 Remedies Act (“CLRA”), Cal. Civ. Code § 1750 *et seq.*, for violations of the Unfair  
28 Competition Law (“UCL”), Cal. Bus. & Prof. Code § 17200 *et seq.*, and the Magnuson-

1 Moss Warranty Act, codified at 15 U.S.C. § 2301 *et seq.*, as well as for breach of express  
2 warranty and unjust enrichment.

3 **PARTIES**

4 7. Plaintiff Alex Soto is a resident of San Francisco, California, located in the  
5 County of San Francisco.

6 8. Plaintiff Vince Eagen is a resident of Campbell, California, located in the  
7 County of Santa Clara.

8 9. Defendant American Honda Motor Co., Inc. (“Honda”) is a corporation  
9 organized under the laws of the State of California and headquartered in Torrance,  
10 California, located in the County of Los Angeles. Honda is the U.S. sales, marketing,  
11 and distribution subsidiary of its Japanese parent company, Honda Motor Co., Ltd.

12 **JURISDICTION AND VENUE**

13 10. This Court has jurisdiction over this action under the Class Action Fairness  
14 Act, the relevant portion of which is codified at 28 U.S.C. § 1332(d). The aggregated  
15 claims of the individual Class members exceed the sum or value of \$5,000,000, exclusive  
16 of interests and costs, and this is a class action in which more than two-thirds of the  
17 proposed plaintiff class, on the one hand, and Defendant Honda, on the other, are citizens  
18 of different states.

19 11. This Court has jurisdiction over Honda because it maintains its principal  
20 headquarters in California; is registered to conduct business in California; has sufficient  
21 minimum contacts in California; or otherwise intentionally avails itself of the markets  
22 within California through the promotion, sale, marketing, and distribution of its vehicles  
23 to render the exercise of jurisdiction by this Court proper and necessary. Moreover,  
24 Honda’s wrongful conduct (as described herein) emanates from California and  
25 foreseeably affects consumers in California. Most, if not all, of the events alleged herein  
26 occurred in or emanated from Honda’s corporate headquarters located in Torrance,  
27 California.

1 12. Venue is proper in this District under 28 U.S.C. § 1391(a)(2) because a  
2 substantial part of the events or omissions giving rise to Plaintiffs' claims occurred in this  
3 District.

4 **SUBSTANTIVE ALLEGATIONS**

5 13. Honda markets, distributes, and warrants Honda Accord vehicles in the  
6 United States.

7 14. Honda widely advertises its Accord models as safe and reliable vehicles.

8 15. Honda provides owners and lessees of Class Vehicles with a New Vehicle  
9 Limited Warranty. The New Vehicle Limited Warranty states that Honda will repair or  
10 replace, free of charge, any part that is defective in material or workmanship under  
11 normal use for 3 years or 36,000 miles, whichever comes first.

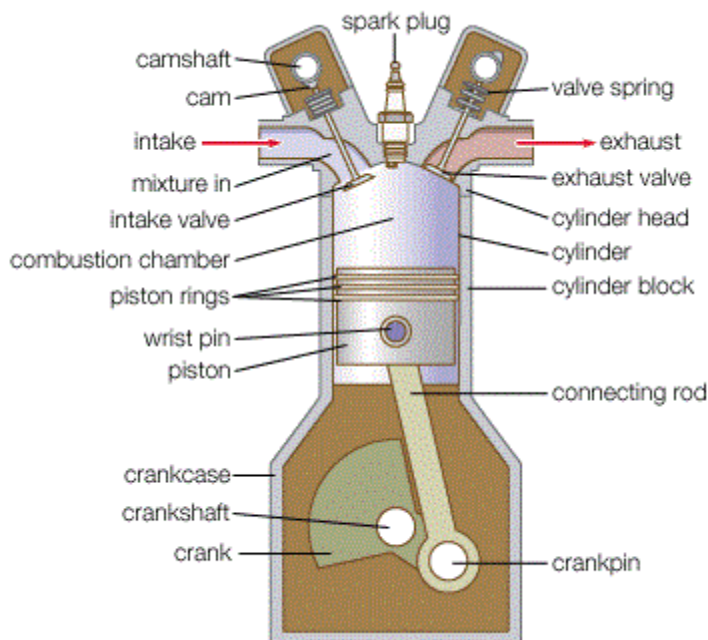
12 16. Honda provides owners and lessees of Class Vehicles with a Powertrain  
13 Limited Warranty that covers, among other things, the “[c]ylinder block and head and all  
14 internal parts, ... valve covers, oil pan, oil pump, intake and exhaust manifolds, ...  
15 engine/powertrain, ... seals and gaskets.” The Powertrain Limited Warranty states that  
16 Honda will repair or replace, free of charge, any part that is defective in material or  
17 workmanship under normal use for 5 years or 60,000 miles, whichever comes first.

18 17. Additionally, federal law, 42 U.S.C. § 7541, requires Honda to provide to  
19 owners and lessees of Class Vehicles a Federal Emissions-related Defects warranty,  
20 which, among other things, requires Honda, per Honda's representation, to “warrant[]  
21 that ... [each Class Vehicle] is designed, built, and equipped to conform at the time of  
22 sale with all applicable emissions standards,” and “is free from defects in materials and  
23 workmanship that would cause it to fail to conform with applicable emissions  
24 requirements during the specified time and mileage period,” and to diagnose and make  
25 repairs of specified components – including any spark plugs that fail before the first  
26 scheduled maintenance, as well as gaskets associated with the ignition system – at no  
27 charge to owners. Said “specified time and mileage period” is at least 3 years or 36,000  
28 miles.

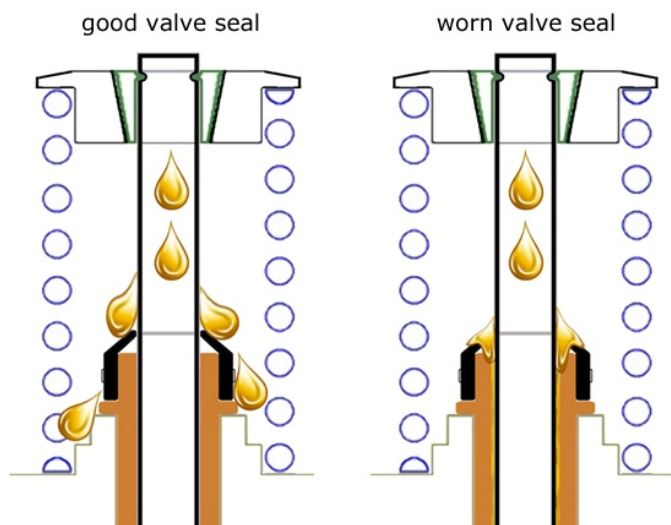
1 18. The defect in the Class Vehicles is in the design and/or manufacture, of their  
 2 engine piston rings or valve guide seals – both of which serve to limit the entry of oil into  
 3 the engine's combustion cylinders – either independently or in their interaction with the  
 4 VTEC system.

5 19. The defect in the Class Vehicles causes oil to enter into the combustion  
 6 cylinders of their engines at a higher rate and/or in greater quantities than intended. That  
 7 oil is burned, along with gasoline, in each car's combustion process. Engines are not  
 8 designed to burn oil in such amounts and/or at such rates because doing so reduces the  
 9 overall supply of the protective lubricant throughout the engine and because the  
 10 byproducts of the oil's combustion are corrosive or detrimental to many of the engine's  
 11 parts, most notably the spark plugs. Thus, consumers are forced to constantly monitor oil  
 12 levels in their Class Vehicles. Worse, they are forced to replace the oil at a rate far  
 13 exceeding their reasonable expectations and will eventually incur bills for repairs of  
 14 components damaged by the oil's corrosive byproducts. Furthermore, the defect is  
 15 manifested by the premature fouling and required replacement of spark plugs.

16 20. The illustration below represents the cross-section of a generic engine  
 17 combustion cylinder, with the piston toward the middle, encircled by piston rings that  
 18 seal most oil out of the cylinder. (This illustration does *not* precisely represent the Class  
 19 Vehicles' engines and is merely included to assist the Court.)



21. Valve guide seals are much smaller, but a defect in their material, design, or manufacture can also result in the leaking of oil into the combustion cylinders where it burns, fouling the engine and depleting the oil. The following illustrations represent cross-sections of generic engine valve assemblies, one with *good* valve guide seals that prevent oil from entering the combustion cylinder, and another with ineffective valve guides seals that do not adequately prevent oil from entering the combustion cylinder. The central shafts running through the illustrations represent valve stems, which move up and down, at the top of the combustion cylinders, to regulate the air flowing into, or exhaust flowing out of, the cylinders. The solid components that surround the valve stems, toward the bottom, correspond to valve *guides*, through which the valve stems pass. And the valve guide seals are depicted in black, at the top of each valve guide. (The circles running down the sides of the illustrations represent cross-sections of the valve springs that coil around the valve assembly.) This illustration is *not* precisely representative of the Class Vehicles' engines and is merely included to assist the Court.



22. Despite hundreds of online complaints and Honda's issuance of a Technical Service Bulletin (directing Honda maintenance crews to check for symptoms of the defect) and numerous ineffective software updates meant to combat the oil consumption defect, Honda refuses to correct the defect in the Class Vehicles.

1           23. Because the defective engines require repairs within 3 years and  
2 36,000 miles, the New Vehicle Limited Warranty obligates Honda to repair the defect.  
3 However, Honda refuses to repair Class Vehicles under the New Vehicle Limited  
4 Warranty, refuses to replace the parts free of charge, and refuses to publicly acknowledge  
5 that the engines suffer from a defect. Honda's refusal to honor the warranty harms the  
6 Plaintiffs and Class members by forcing them to incur out-of-pocket costs on repairs  
7 covered by the warranty and by forcing them to spend excessive time replacing oil and  
8 parts repeatedly damaged by the defect.

9           24. Because the defective engines require repairs within 5 years and 60,000  
10 miles, the Powertrain Limited Warranty obligates Honda to repair the defect. However,  
11 Honda refuses to repair Class Vehicles under the Powertrain Limited Warranty, refuses to  
12 replace the parts free of charge, and refuses to publically acknowledge that the engine  
13 suffers from a defect. Honda's refusal to honor the warranty harms the Plaintiffs and  
14 Class members by forcing them to incur out-of-pocket costs on repairs covered by the  
15 warranty and by forcing them to spend excessive time replacing oil and parts repeatedly  
16 damaged by the defect.

17           25. Because the defective engines require repairs within 3 years or 36,000 miles,  
18 the Federal Emissions-related Defects Warranty requires Honda to repair the defect.  
19 However, Honda refuses to repair Class Vehicles under the Federal Emissions-related  
20 Defects Warranty, refuses to replace the parts free of charge, and refuses to publically  
21 acknowledge that the engine suffers from a defect. Honda's refusal to honor the warranty  
22 harms the Plaintiffs and Class members by forcing them to incur out-of-pocket costs on  
23 repairs covered by the warranty.

24           26. Furthermore, Honda's refusal to permanently repair or remedy the defect  
25 harms the Plaintiffs and Class members by diminishing the Class Vehicles' reputation for  
26 reliability, thereby decreasing the resale value of Class Vehicles.

27           27. Consumer have lodged numerous complaints concerning the defect in Class  
28 Vehicles with the National Highway Traffic Safety Administration (NHTSA). These  
complaints reflect the abnormally high rates of premature engine failure, the repeated,

1 unexpected repair costs, and Honda's refusal to honor its warranties or to take  
2 responsibility for the defect. The following complaints are unedited.

- 3
- 4 • June 18, 2009; THE CONTACT OWNS A 2008 HONDA ACCORD. THE  
5 CONTACT STATED THAT THE VEHICLE CONSUMED EXCESSIVELY  
6 LARGE AMOUNTS OF OIL. HE STATED THAT THERE WERE TWO  
7 QUARTS OF OIL USED FOR EVERY 1,000 MILES TRAVELED. THE  
8 VEHICLE WAS TAKEN TO AN AUTHORIZED DEALER WHO ADVISED  
9 THAT THEY DID NOT KNOW THE CAUSE OF THE FAILURE. THE  
10 VEHICLE WAS NOT REPAIRED AND THE MANUFACTURER WAS NOT  
11 MADE AWARE OF THE FAILURE. THE CURRENT MILEAGE WAS  
12 APPROXIMATELY 54,000 AND THE FAILURE MILEAGE WAS  
13 APPROXIMATELY 20,000. (ODI: 10400626)
  - 14 • October 21, 2010; NO EVENT CAUSED FAILURE. BELIEVE IT IS JUST A  
15 FAILURE IN EQUIPMENT/MATERIAL 2. 2008 HONDA ACCORD IS  
16 BURNING AN EXCESSIVE AMOUNT OF OIL. ONE QUART EVERY  
17 THOUSAND MILES. SEVERAL OIL CHANGES HAVE HAD ALMOST  
18 NO OIL IN THE ENGINE BECAUSE THE PROBLEM WAS UNKNOWN.  
19 THE PROBLEM IS CONSTANT AND MAY BE DEFECTIVE OIL RINGS  
20 OR SOMETHING WORSE. 3. WHAT WAS SUGGESTED BY HONDA  
21 WAS REBUILDING THE ENGINE. (ODI: 10397452)
  - 22 • July 14, 2009: THE CONTACT OWNS A 2008 HONDA ACCORD. THE  
23 CONTACT STATED THAT THE VEHICLE WAS LOSING OIL AND  
24 ONLY NOTICED THAT WHEN THE OIL AND CHECK ENGINE LIGHT  
25 CAME ON. THE VEHICLE WAS INSPECTED BY THE DEALER  
26 SEVERAL TIMES, BUT THE DEALER WAS UNABLE TO FIND THE  
27 SOURCE OF THE LEAK. THE DEALER PERFORMED A DIAGNOSTIC  
28 TEST AND CONFIRMED THAT THE VEHICLE WAS LOSING TWO  
QUARTS OF OIL EVERY 200 MILES. THE MANUFACTURER STATED  
THAT THEY WOULD LOOK INTO THE PROBLEM, BUT DID NOT  
OFFER ANY ASSISTANCE. THE FAILURE MILEAGE WAS 59,000 AND  
THE CURRENT MILEAGE WAS 94872. (ODI: 10377092)
  - August 1, 2007; \*THE CONTACT OWNS A 2008 HONDA ACCORD. THE  
CONTACT STATED THAT THE VEHICLE BURNED OIL FASTER THAN  
NORMAL. THE VEHICLE WAS TAKEN TO AN AUTHORIZED  
DEALERSHIP WHERE THE CONTACT WAS INFORMED THE  
VEHICLE WAS BURNING OIL FASTER THAN NORMAL BUT STILL IN  
ACCORDANCE WITH INDUSTRY STANDARDS. THE VEHICLE WAS



1 NOT REPAIRED AT THE TIME OF THE COMPLAINT. THE FAILURE  
2 CONTINUED TO OCCUR. THE FAILURE MILEAGE WAS  
3 APPROXIMATELY 3,000. THE CURRENT MILEAGE WAS  
APPROXIMATELY 37,000. (ODI: 10332669)

- 4 • February 9, 2011: 2008 HONDA ACCORD EX-L WITH THE CHECK  
5 ENGINE LIGHT ON AND OFF FOR THE PAST YEAR AND A HALF.  
6 WHEN I BRING THE CAR BACK TO THE DEALER THEY SAY I HAVE  
7 NO OIL IN THE ENGINE. THIS GOES ON EVERY OTHER MONTH AND  
8 THEY HAVE NOT SOLVED THE PROBLEM. MY CAR IS STILL  
9 FORTUNATELY UNDER EXTENDED WARRANTY, BUT IS THERE  
10 MORE DAMAGE BEING DONE THAT ONCE I REACH MY  
11 WARRANTY THE CAR WILL BE WORTHLESS? THE DEALER AND  
12 AMERICAN HONDA HAVE BEEN USELESS IN THIS MATTER AND  
13 HAVE TOLD ME TO DRIVE MY CAR WITH EVERY WARNING LIGHT  
ON UNTIL THEY CAN FIGURE OUT HOW TO FIX IT. AT WHAT POINT  
IN A CAR JUST A LEMON? IF I COULDN'T TURN BACK TIME 2  
YEARS I WOULD HAVE NEVER BOUGHT THIS CAR. (ODI: 10331244)

14 28. Honda tells its customers that they should inspect their vehicles' oil levels  
15 every time they purchase gasoline.

16 29. Regardless of how often the owner or lessee of a Class Vehicle checks the  
17 vehicle's oil level, he or she will still have to replenish his or her vehicle's oil so as to  
18 avoid damage to the engine resulting from substantial loss of oil.

19 30. Numerous owners of Class Vehicles have posted complaints on the  
20 Internet. Below is a sampling from the approximately 130 complaints on  
21 *carcomplaints.com* alone. These complaints, which are unedited, represent the  
22 ubiquity of the defect in the Class Vehicles and, although some complaint authors are  
23 not members of the proposed class, demonstrate Honda's systematic failure to remedy  
24 the defect in Class Vehicles.

- 25 • I have a problem with any vehicle that may be mechanically compromised  
26 when you follow the factory suggested maintenance schedule. I also have a  
27 problem with a known defect that is never mentioned until after the sale of the  
28 vehicle. The dealership stated that Honda tech line said oil consumption up to  
one quart every 1000 miles is acceptable. This means that the maintenance  
minder system is worthless, that the owners manual is wrong and that Honda  
appears to be making it up as they go along to cover their quality problems. I

1 wanted assurances in writing that this issue would not compromise resale  
2 value or engine integrity in the long run such as excessive spark plug fouling,  
3 cylinder/valving build-up, internal emission build-up or emission testing  
4 problems in the future. So far: NOTHING. Just a recommendation that I  
change my oil in a time frame suitable to the amount it burns.

5 I find it hard to believe that with all the environmental concerns, Honda  
6 doesn't have a problem with burning a lot of oil from their sloppy-pig engines.  
7 Is this how the engines were designed? Is this how they were approved for use  
8 in the USA? If that were true or if Honda wasn't trying to cover-up/ignore the  
9 issue then it should be stated in the maintenance schedule, the owners manual  
10 and discussed during the sale of the vehicle so people can make informed  
decisions about how they want to lubricate their engines or trash the  
environment.

11 This is my third and final Honda. American car companies are really on the  
12 way up - that's the kind of company I want to do business with, not one that is  
13 on the way down and unwilling to stand behind their product in writing. (Dave  
14 C., Tacoma, WA)

- 15 • Add me to the list of dissatisfied Honda Accord 2008 owners! I went to the  
16 dealer for an oil change and was told that the engine noise I was reporting to  
17 them was connected to low oil in the engine. After further discussion, I was  
18 told that "it is within specs for a Honda Accord engine to use up a quart every  
19 1,000 miles". My experience with newer vehicles tells me that an oil change  
should occur every 5,000 miles or so.

20 How has Honda set back the entire auto industry!?

21 I am pissed because up until now I had heard great things about Hondas now  
22 with one trip to the dealer I am told that we make lemons and lower acceptable  
23 standards because our engines are subpar - ridiculous.

24 I took my car in for another oil change yesterday after 3,000 miles. This non  
25 dealer mechanic said I had 2.5 quarts in the engine and this was not good. I  
26 have used 2 quarts in 3,000 miles (not the worst story on this page but still  
27 crap). I told my mechanic what the dealer had said and he smiled and shook  
28 his head. I asked him if this was normal for a car engine to consume that much  
and he said no. The engine obviously is not working on an efficient level and  
this means closer monitoring, more frequent oil changes at more expense and  
possibly greater chance of engine damage due to low oil that is not caught  
beforehand. Just unacceptable - how does Honda keep a reputation when they

1 produce this crap and spin it by saying this performance is within "our specs".  
2 (John L. Fredericksburg, VA)

- 3
- 4 • My 2009 Accord V6 is burning oil a bit more than 1 quart every 1000 miles.  
5 On a recent long trip, the engine light came on and the car started running  
6 rough. When I took the car to the dealer, they said the spark plugs were fould  
7 which was caused by a software problem in the car's engine computer. They  
8 said it was related to the excessive oil consumption. They also said a new  
9 service bulletin came out that instructs them to reprogram the computer with  
10 new software which is supposed to cure the oil consumption problem. They  
11 reprogrammed the computer and changed my spark plugs without charge.  
12 Time will tell if this fixes the problem.

13 *Update from Sep 11, 2011* Well it's been a few months and it doesn't look like  
14 the oil consumption problem is fixed. My dealer has opened up an oil  
15 consumption test and I'm afraid they will not do anything if they discover that  
16 the consumption is a quart every 1000 miles or more. (SavoyKl, Dayton, OH)

- 17 • Having the same problem here.  
18 I bought my 08 accord (manual transmission) used last summer with 42K  
19 miles on it, and took me until now to discover this, only because I was  
20 stretching the oil change this time to 5K miles instead of traditional 3K....I  
21 would get a rattling metal on metal sound as I shifted through the gears in the  
22 first 5-10 miles of driving...  
23 Talked to my mechanic, who got on the phone with American Honda directly.  
24 Honda standing by their "specs" that it is normal to burn 1 qt per 1000 miles....  
25 Crazy and Unacceptable!  
26 They are doing an Oil Consumption Test for FREE for me (checking oil,  
27 documenting how much burned off, and then topping off the oil every 1000  
28 miles for the next 3000 miles, so that I can walk into Honda with something  
more concrete in my hand, plus they mentioned they've logged a case with  
Honda on my car's behalf, so it's in "the system", (whatever that means...).

I just hit the first 1000 miles this week, and sure enough I was 1 qt low. For  
now, the plan is to go to Honda after my 3K miles are up, and show them my  
mechanics documentation to see how they respond.

I am disappointed that Honda hasn't come clean to acknowledge the problem  
and do the right thing in fixing this problem for their customers. It goes a long  
way in brand loyalty....I wonder how the 2008 Camry's are doing???? hmm?

1 I guess Honda needs to see more complaints first...so here's one more! (Jim L.  
2 Raleigh, NC)

- 3 • I bought my Honda Accord in January 2008. It had 8 miles on it on the day I  
4 took it home. I have repeatedly taken my care to Honda to look at and see  
5 exactly how much oil it lost between oil change. 1 quart per 1000 miles!!!  
6 Give me a brake! There is no way that is normal! I am serious when I say this:  
7 Who is ready to file a Class Action against Honda? Please reply if interested.  
8 (Jennifer H. Birmingham, AL)
- 9 • I have had the oil changed every 5000 miles at Honda. Noticed the car ran  
10 smoother after an oil change, started asking if the oil level was ok before they  
11 changed it. "no problem!" well, the valvs started to rattle and the oil light went  
12 on. They said to come in for an oil consumption test. Did a few, it burns a  
13 quart of oil every thousand miles. They were super concerned the first test,  
14 said thats bad and would fix it if it was a half quart low at 1000 miles. At 1000  
15 miles, they said "sorry, if it burns a quart or less per 1000 miles, its within  
16 factory specs. They seemed nervous. wont do a thing to fix it. If I wait the  
17 recommended 6000 miles to change the oil, it will burn the engine up! this is  
18 INSANE. They must be worried about a major recall. Horrible service, and  
19 service is why I bought the Honda! Im fighting this, getting the govt involved.  
20 Horrible. (Mark T. Grand Rapids, MI)
- 21 • Red oil warning light came on intermittently. Checked oil and barely  
22 registered on dip-stick. Added two 2 quarts to get back to half-way between  
23 the two dip-stick holes. Honda dealer could not find any leaks and asked me to  
24 bring it back in a few weeks to check oil level. When I brought it back they  
25 asked me to start oil consumption test and indicated that losing 1 quart of oil  
26 per 1,000 miles is normal. Changed oil and red oil warning light came on  
27 intermittently four weeks / 3,100 miles later. The rate measured was 1 quart  
28 per 1,550 miles which is within their published normal level. This 2008  
Accord is my third Accord I have purchased since 1996 and this level of oil  
consumption is not normal. I currently own four Hondas and this will be my  
last if you do make this right. Honda, what are you going to about your  
problem? (Rick K. Medina, OH)
- This is the same story as everyone else. My 3 year old car is burning oil and  
has been for the last year. I am in the middle of the "oil consumption" test. I  
want to know how to end this in the quickest way. The stupid test has to be run  
twice, it's going to take at least a year to complete it. My red idiot oil light has  
come on multiple times, I have endless amounts of documentation that the car  
consumes oil, I've been to 2 different dealerships for help, and this continues

1 on and on. IM DONE!! How do I get them to either replace the engine or buy  
2 the car back? Does anyone know, or do I really have to get a lawyer involved  
3 for help?? I had a 98 Honda civic previous to this brand new car and never had  
4 one problem with it. I shouldve never gotten rid of it. I'm definitely having  
5 buyers remorse, and will NEVER NEVER NEVER buy another Honda again.  
6 What is the point of having a warranty if the company won't stand behind it?  
7 Side note...when I told the dealership that I understand that this is probably an  
8 isolated incident (prior to me finding this website) and I just want my car  
9 fixed, the tech looked at me straight in the face and said "no its not". What the  
10 hell? STAND BEHIND YOUR PRODUCT, stop screwing your customers  
11 Honda!!

12 *Update from Jul 16, 2011* Around March I took the car into the dealership I  
13 requested a meeting with the territory rep. After a few weeks of being put off,  
14 I threatened to sue Honda for faliture of upholding their warrenty. Within a  
15 month I had the meeting and the car was at the dealership having the piston  
16 rings replaced along with a couple of other things. I have been checking the oil  
17 every week and there doesn't SEEM to be a problem anymore, but I guess  
18 we'll see when I take it in for the next oil change. DO NOT LET THEM  
19 WALK ALL OVER YOU! They promised to stand behind their cars when  
20 they offered a warrenty, dammit - make them!! (Stacy H. Beaverton, Oregon)

- 21 • Same problems as others have listed. Using 3 qts of oil per 3000 miles and  
22 have had one plug replaced to date. When the plug was replaced was told it  
23 was a computer problem and reprogramed it with a fix. As of this date have  
24 been told 1 qt per 1000 miles was ok and I told them I would not except that  
25 answe. Then was told a solution was due after Thanks Giving. (Possible  
26 computer problem). I do not beleave this unless there is a dump valve that the  
27 computer dumps the oil out. Waiting for Thanks Giving then heading back.  
28 This is my 5th Honda ( most with 150000 miles plus) and depending on the  
outcome may be the last. (Mark B. Pittsboro, IN)
- I am also having the same issue with my 2008 Honda Accord EXL. The car  
has 27000 miles. The oil change before the last I checked my fluids in my car  
and found the oil level to me 1.5 qts low. At my next oil change I asked the  
service manager about this but he just said that it is normal for the car to burn  
1qt every 1000 miles like the rest of you stated. I am assuming Honda Corp as  
directed them to say this. I have had new Honda's since 1990 this is my 8th  
honda and this is very frustrating. They tell me they to bring the car in every  
1000 miles to let them check it. I explained to them that it is terrible for them  
to think someone has the time to come in to the dealership every 1000 miles to  
have their oil checked. He was rude with me and says I asked him to help me

1 and if I wanted the help that is what I would do. I called Honda Corp and  
2 reported this but I am sure this will not help anything. I guess we are all  
3 screwed either keep the car and the problems or trade it in and let it become  
someone else problem. (T.H. Shelby, NC)

- 4
- 5 • I also have a 2008 Honda Accord - we bought on the belief "car is dependable  
6 and will last 300k miles. I have 67000 highway miles in 2 1/2 years of driving  
7 to and from work, get oil changed per the Oil Life sensor. Last month I noticed  
8 the oil pressure light coming on when I would pull up to a stop light. Took to  
9 local oil change place to ask for a top off and they had to add 2 1/4 quarts -  
10 was shocked as were they. They looked and no leaks, everything was tight. I  
11 drove away thinking it was odd - I did not notice any leaks at home or white  
12 smoke when driving, I don't drive the car like a race car (its only a 4 cylinder).  
LOL!!! A few weeks later getting gas decided to check oil and needed to add  
13 another 1 1/2 quarts. Looked at oil and anti-freeze to see if there was odd  
14 liquids in there... nothing. Exhaust tail pipe is black and wet. I have a  
15 mechanic friend taking the car today to look at it. (John P. Barnhart, MO)
  - 16 • I have a 2008 Honda Accord EX Sedan 3.2 V6 and it is burning about 1 quart  
17 of oil every 2-3k miles. At my last oil change, the person changing the oil said  
18 that when he checked the oil BEFORE the oil change, the oil wasn't even on  
19 the stick. He checked for leaks, but did not find any. He also pointed out the  
20 oil residue on my tail pipes, it was significant. I called the dealer and asked if  
there were any recalls on my Honda and they said no. The person also told me  
21 that Honda considers it within "normal specs" to burn 1 quart every 1k miles. I  
22 told him that was absolutely absurd, new cars should burn oil!!! I had a '92  
23 Honda Accord EX that leaked oil (as it got much older) and I didn't need that  
24 much oil!!

25 I spoke to a mechanic and he stated that it may be the piston rings. I may get  
26 the explanation wrong, but I guess the piston rings are supposed to keep the  
27 gas and oil separate and maintain a certain pressure within the piston. If that  
28 certain amount of pressure isn't maintained, then the oil will (leak?) and burn  
off.

To say that I am disappointing in Honda is an understatement. I have owned a  
'79, '87 and '92 Honda with no major problems. I don't believe that one bad  
year at Honda defines the quality, but their lack of attention to the problem and  
customer service does. (Angie H. Lockport, IL)

- Called 3 Honda dealerships and they say it is normal to consume 1 quart of oil  
every 1000 is ok. Even called the main company and they said its in the specs.

1 Why would you want a vehicle that burns oil how can you travel anywhere,  
2 what are you suppose to bring bunch of oil to drive anywhere????????????  
(Sheryl C., Yucca Valley, CA)

- 3
- 4 • HELLO, FELLOW HONDA OWNERS!!! YOU ARE NOT ALONE. I  
5 PURCHASED A NEW 2008 HONDA ACCORD EX-V6 NAVI---  
6 LOADED!!! GREAT CAR, SO I THOUGHT. I HAD THE TYPICAL  
7 FOULED # 3 SPARK PLUG PROBLEM 2 TIMES AND MASSIVE OIL  
8 CONSUMPTION. THE HONDA DEALER FIXED EVERYTHING FREE  
9 OF CHARGE. I THEN GOT TIRED OF GOING EVERY 3 MONTHS (40 K  
10 MI.) FOR THE SAME PROBLEM, SO STUPID ME GOES UPSTAIRS  
11 DURING THE LAST SPARK PLUG ISSUE AND TRADED THE 2008 IN  
12 FOR THE NEW PROBLEM FEE 2010 ACCORD EX-V6 NAVI. IT'S BEEN  
13 APPROX. 6 MONTHS AND 12,000 TROUBLE FREE MILES. LOW AND  
14 BEHOLD THE OIL ISSUE IS ALWAYS IN THE BACK OF MY HEAD SO  
15 I GO OUTSIDE AND START CHECKING THE OIL EVERY STAURDAY  
16 AND FIND MY 2010 ACCORD IS USING OIL. I HAVE NOT NOTIFIED  
17 THE DEALER YET.

14 I AM A LOYAL HONDA OWNER AND TRULY BELIEVE IN THIS  
15 COMPANY. I HAVE OWNED 7 NEW HONDAS SINCE 1992. I HAVE  
16 NEVER PURCHASED A NEW CAR FROM ANOTHER COMPANY. I  
17 WORK CRAZY HOURS AND DRIVE ALOT OF MILES. (30 K YEAR) I  
18 HAVE NEVER NEEDED A TOW TRUCK DUE TO BREAKDOWNS.

18 BUT NEVER AGAIN WILL I BUY A NEW HONDA AUTOMOBILE. I  
19 WILL SEARCH FOR OTHER OPTIONS. MY HEART TELLS ME ONE  
20 THING AND MY MIND IS TELLING ME TO STAY AWAY. ( SOUND  
21 LIKE A SOAP OPERA ). QUESTIONS OR COMMENTS  
22 TO [howbayne@comcast.net](mailto:howbayne@comcast.net) (Howbayne, Mahopac Falls, NY)

- 22
- 23 • At 3100 miles I had to add a quart of oil to the engine. The car has mostly  
24 highway miles and is not driven over 70 MPH. I again checked the oil after  
25 150 miles of adding oil and noticed a drop in oil. I also have a 2003 Honda  
26 Accord EXL V6 that never uses any oil.(mike, Norwood, PA)
  - 27 • Have a 2010 Honda Accord sedan V-6. I bought it new in Feb. 2010, and at  
28 3947 miles only had 2-1/4 quarts of oil in engine. The oil pressure light never  
came on, but the engine light did. I took it to the dealer and had a misfire on #3  
cylinder in addition to oil deposit on #2 & #3 spark plugs, which where  
replaced. Honda dealer thought honda corp techies would aprove new engine  
but they told dealer to send me on my way and have me check my oil level

1 every 1,000-2,000 miles. What happend to Honda reliability?  
2 Will file for lemon law WHEN problem continues! (David, Riverbank, CA)

3 31. Honda has long known that its Accord vehicles have the aforementioned  
4 defect. Honda has exclusive access to information about the defect through its  
5 dealerships, pre-release testing data, warranty data, customer complaint data, and  
6 replacement part sales data, among other sources of aggregate information about the  
7 problem.

8 32. Notably, Honda has issued (a) specific Technical Service Bulletin(s) and  
9 Engine Control Module software updates through its dealerships' service departments, as  
10 an ineffective attempt to remedy this issue. In contrast, the defect was not known or  
11 reasonably discoverable by the Plaintiffs and Class members prior to purchase and  
12 without experiencing the defect firsthand.

13 33. Honda has actively concealed the defect from consumers. Even when an  
14 owner or a lessee of a Class Vehicles specifically asks whether his or her vehicle suffers  
15 from a known problem, Honda's policy is to deny that there is a known problem,  
16 continue concealing the defect, and to assert that their vehicle consuming or losing as  
17 much as 1 quart of oil per 1,000 miles driven is normal.

18 34. Honda directed its dealerships' service departments to maintain its  
19 campaign of active concealment through service bulletins, software updates, and a  
20 technician's telephone line. Honda dealerships frequently performed "oil consumption  
21 tests" on Class Vehicles to placate concerned owners or lessees. Each of these  
22 mechanisms helped to ensure that owners and lessees received a uniformly misleading  
23 response from any Honda dealership regarding the existence of the defect.

24 35. Authorized by Honda to evaluate any mechanical problems that a vehicle  
25 owner may encounter, the dealerships spoke with the authority of Honda itself when  
26 refusing to admit the fact that the Class Vehicles are defective. This relationship ensured  
27 that all Class Vehicles were serviced under Honda's direction and control and that  
28 warranty coverage was uniformly denied.



1           36. Honda knew that potential car buyers and lessees would deem the defect to  
2 be material such that reasonable consumers who knew of the defect either would have  
3 paid less for the Class Vehicles or would not have purchased or leased a Class Vehicle at  
4 all.

5           37. As a result of Honda's practices, Plaintiffs and Class members purchased  
6 Class Vehicles they otherwise would not have purchased, paid more for those vehicles  
7 than they would have paid, unnecessarily paid – and will continue to pay – repair costs  
8 and oil replacement costs as a result of the defect, and suffered diminution of those  
9 vehicles' resale value.

10                           **PLAINTIFFS' EXPERIENCES**

11   **Plaintiff Alex Soto**

12           38. Plaintiff Alex Soto bought a new 2008 4-cylinder Honda Accord in October  
13 2008 in El Salida, California. The vehicle had only 30 miles on the odometer as a result  
14 of dealership driving. Mr. Soto decided to purchase the vehicle because of the price and  
15 because he thought it was a safe and reliable vehicle. Honda did not inform Mr. Soto  
16 before his purchase that the vehicle's engine was defective, that it would need to have as  
17 much as 1 quart of oil added per up to 1,000 miles driven, and that some of the engine's  
18 spark plugs would be prematurely fouled. Mr. Soto would not have purchased the  
19 vehicle had he known those facts.

20           39. In March 2011, with about 31,000 miles on his vehicle, Mr. Soto noticed a  
21 grinding noise coming from the engine. When he arrived home, he checked the oil level  
22 and found that the vehicle's dipstick – which roughly indicates the level of oil in the  
23 engine – was completely dry.

24           40. Mr. Soto contacted the Honda dealership to explain his surprise and  
25 frustration with the vehicle. He expressed concern with driving the vehicle given the  
26 obvious defect that could harm the engine's components. Still, the Honda technicians  
27 insisted he bring the vehicle into the dealership. Mr. Soto purchased two quarts of oil,  
28 added them to his vehicle's engine, and brought it in for diagnosis and repair.

1           41.    When Mr. Soto explained his problems to the dealership's service  
2 technician, the technician responded as though he had never heard of this problem before.  
3 He offered to run various tests in order to determine the root cause of the problem.

4           42.    Mr. Soto left the dealership and had only travelled three to five city blocks –  
5 mere minutes of travel – when he received a telephone call from the dealership stating  
6 that there was nothing wrong with the vehicle and that the dealership would simply  
7 change and replenish the vehicle's oil, and Mr. Soto could then continue on his way. In  
8 disbelief that he needed an oil change, Mr. Soto pointed out that his vehicle's engine  
9 monitoring system reported that his vehicle had 67% oil life left. The service technician  
10 responded that "that doesn't meaning anything" and assured Mr. Soto that he simply  
11 needed an oil change.

12           43.    Naturally, Mr. Soto assumed that the service technician simply spoke to his  
13 manager or another technician who immediately recognized the cause of the problem and  
14 the fact that Honda would not offer an acceptable remedy. Mr. Soto was directed to  
15 return to the dealership after driving 1,000 miles as part of an "oil consumption test." At  
16 the end of the test, the oil level was low, as Mr. Soto had lost over a quart of oil during  
17 the "consumption test."

18           44.    After driving for approximately another 1,000 miles, Mr. Soto brought the  
19 vehicle into the dealership again, where he was told that a software update had been  
20 released to solve the oil consumption problem. No technician could explain to Mr. Soto  
21 how a software update would impact or reduce the level of oil consumed by his vehicle.

22           45.    Just 1,000 miles after receiving the software update and having his vehicle's  
23 oil replenished, Mr. Soto again checked his oil level. Only a negligible amount of oil  
24 appeared on the dipstick.

25           46.    Finally, in late September 2011, Mr. Soto brought his vehicle into the  
26 dealership again as a result of oil loss.

27           47.    A dealer representative informed Mr. Soto that there may be a leak in his  
28 vehicle, despite the facts that Mr. Soto had never noticed any oil puddles beneath his

1 vehicle, the dealer did not notice any oil puddles beneath the vehicle, and no one could  
2 specify where the leak, if one did, in fact, exist, might be.

3 48. The technician added a dye to the oil and asked Mr. Soto to return after  
4 driving another 1,000 miles.

5 49. Upon return to the dealership, after driving just 2,000 miles more, a dealer  
6 representative told Mr. Soto that his car was not leaking oil. Further, the representative  
7 said that Mr. Soto's vehicle passed two tests known as the "compression" and "leak  
8 down" tests. Nevertheless, Mr. Soto had been forced to add oil during this 2,000 mile  
9 test and his vehicle was, once again, low on oil when he arrived at the dealership.

10 50. Though the dealer stated it was normal to be low on oil when needing a  
11 change, Mr. Soto was offered no explanation for his car's requiring additional oil three  
12 times within 2,000 miles.

13 51. Mr. Soto also told the dealership's service agents that he had stopped in the  
14 dealership three times to add oil to his vehicle. He received no repair or recommendation  
15 to remedy this defect.

16 52. Since these events, Mr. Soto has monitored his own oil level, replenishing  
17 his vehicle's oil, whenever it runs low.

18 53. The car continues to lose or consume excessive amounts of oil, far beyond a  
19 consumer's reasonable expectations.

20 54. Furthermore, Mr. Soto has routinely noticed carbon buildup on his exhaust  
21 pipe – a telltale sign that oil, and not just gasoline, is burning in the engine where it  
22 would not burn if the vehicle were not defective. Honda Service technicians assured Mr.  
23 Soto that this too was a normal occurrence.

24 55. Honda has refused to repair any seals, rings, or other mechanisms, or  
25 otherwise repair Mr. Soto's vehicle as it is required to do under the various warranties.

26 **Plaintiff Vince Eagen**

27 56. Plaintiff Vince Eagen purchased his 2008 six-cylinder VTEC Honda Accord  
28 in or around October 2008 in California.

1 57. After driving his vehicle just 20,000 miles, Mr. Eagen noticed a rapid loss of  
2 oil.

3 58. He immediately brought the vehicle to the Honda dealership for service,  
4 expecting that the rapid loss of oil would be resolved. However, after having just driven  
5 5,000 miles more, Mr. Eagen's vehicle's oil pan was dry.

6 59. After bringing the car back to the dealership, he was told that losing 1 quart  
7 of oil per 1,000 miles driven is typical.

8 60. Mr. Eagen has necessarily replenished his vehicle's engine's oil with a quart  
9 of oil once per month at a cost of approximately \$5 per quart.

10 61. In addition to direct damages from oil loss, Mr. Eagen's vehicle's spark  
11 plugs have twice become prematurely fouled as a result of oil burning in the engine's  
12 cylinders.

13 62. When Mr. Eagen's vehicle had just 30,000 miles on the odometer, the  
14 engine began to misfire. The spark plugs, valve seals, intake valve seals, and gasket head  
15 covers were replaced under warranty.

16 63. However, later, when the vehicle's odometer reached approximately 55,000  
17 miles, Mr. Eagen noticed that his engine was again misfiring. He diagnosed the problem  
18 himself by running the codes that the vehicle provides through a database. Using these  
19 codes, Mr. Eagen discovered that the spark plugs were once again fouled.

20 64. After a local mechanic shop replaced one spark plug at a cost of about \$200,  
21 Mr. Eagen decided to replace the rest himself at a cost of approximately \$90.

22 65. Notably, the fouled spark plugs were markedly corroded. This was  
23 surprising to Mr. Eagen because the plugs had only been installed for about 25,000 miles.

24 66. The spark plugs corroded rapidly as a result of oil burning in the engine's  
25 combustion cylinders.

26 **CLASS ACTION ALLEGATIONS**

27 67. Plaintiffs bring this action on behalf of themselves and a class of persons  
28 initially defined as follows:

1 All (i) current owners or lessees of a 2008, 2009, or 2010  
2 Honda Accord vehicle who sought diagnosis or service  
3 concerning their vehicle's rate of motor oil consumption within  
4 any of the applicable warranty periods; and (ii) former owners  
5 or lessees of a 2008, 2009, or 2010 Honda Accord vehicle who  
6 sought diagnosis or service concerning their vehicle's rate of  
7 motor oil consumption within any of the applicable warranty  
8 periods.

9 (the "Class").

10 68. Excluded from the Class are Honda and Honda Motor Co., Ltd.; any  
11 affiliate, parent, or subsidiary of Honda or Honda Motor Co., Ltd.; any entity in which  
12 Honda or Honda Motor Co., Ltd. has a controlling interest; any officer, director, or  
13 employee of Honda or Honda Motor Co., Ltd.; any successor or assign of Honda or  
14 Honda Motor Co., Ltd.; anyone employed by counsel for Plaintiffs in this action; any  
15 Judge to whom this case is assigned, as well as his or her immediate family and staff; and  
16 anyone who purchased a Class Vehicle for the purpose of resale.

17 69. This action has been brought and may properly be maintained on behalf of  
18 the Class proposed above under Federal Rule of Civil Procedure Rule 23.

19 70. Numerosity. Members of the Class are so numerous that their individual  
20 joinder herein is impracticable. Hundreds of thousands of Class Vehicles have been sold  
21 or leased in the United States, with a substantial portion of those sales occurring in  
22 California. Class members may be notified of the pendency of this action by mail,  
23 supplemented (if deemed necessary or appropriate by the Court) by published notice.

24 71. Existence and predominance of common questions. Common questions of  
25 law and fact exist as to all members of the Class and predominate over questions  
26 affecting only individual Class members. These common questions include the  
27 following:

- 28 a. Whether Honda provided Plaintiffs and Class members with a vehicle  
inherently defective in its ability to keep oil from burning in the  
engine's combustion chambers;

- 1           b.     Whether the fact that the engine is defective and required frequent oil  
2                   replacement and early corrosion of engine components would be  
3                   considered material by a reasonable consumer;  
4           c.     Whether Honda has a duty to disclose the defect to Plaintiffs and other  
5                   Class members;  
6           d.     Whether Honda has violated the Consumers Legal Remedies Act, Cal.  
7                   Civ. Code § 1750 *et seq.*, as alleged in this Complaint;  
8           e.     Whether Honda has engaged in unlawful, unfair, or fraudulent  
9                   business practices in violation of California Business and Professions  
10                  Code section 17200 *et seq.*, as alleged in this Complaint;  
11           f.     Whether Honda breached the express warranties by refusing to  
12                  provide warranty coverage for the defect;  
13           g.     Whether Plaintiffs and the other Class members are entitled to  
14                  equitable relief, including but not limited to restitution or a  
15                  preliminary and/or permanent injunction; and  
16           h.     Whether Plaintiffs and the other Class members are entitled to  
17                  damages and other monetary relief.

18           72.   Typicality. Plaintiffs' claims are typical of the claims of the Class, because,  
19 among other things, Plaintiffs purchased Class Vehicles, which contain the same defect  
20 found in all other Class Vehicles.

21           73.   Adequacy. Plaintiffs are adequate representatives of the Class because their  
22 interests do not conflict with the interests of the members of the Class they seek to  
23 represent. Plaintiffs have retained counsel competent and experienced in complex class  
24 action litigation, and Plaintiffs intend to prosecute this action vigorously. The interests of  
25 members of the Class will be fairly and adequately protected by Plaintiffs and their  
26 counsel.

27           74.   Superiority. The class action is superior to other available means for the fair  
28 and efficient adjudication of this dispute. The injury suffered by each Class member,  
while meaningful on an individual basis, is not of such magnitude as to make the

1 prosecution of individual actions against Honda economically feasible. Even if Class  
2 members themselves could afford such individualized litigation, the court system could  
3 not. In addition to the burden and expense of managing myriad actions arising from the  
4 defect, individualized litigation presents a potential for inconsistent or contradictory  
5 judgments. Individualized litigation would increase the delay and expense to all parties  
6 and the court system presented by the legal and factual issues of the case. By contrast,  
7 the class action device presents far fewer management difficulties and provides the  
8 benefits of single adjudication, economy of scale, and comprehensive supervision by a  
9 single court.

10 75. In the alternative, the Class may be certified because:

- 11 a. the prosecution of separate actions by the individual members of the  
12 Class would create a risk of inconsistent or varying adjudication with  
13 respect to individual Class members which would establish  
14 incompatible standards of conduct for Honda;
- 15 b. the prosecution of separate actions by individual Class members  
16 would create a risk of adjudications with respect to them which  
17 would, as a practical matter, be dispositive of the interests of other  
18 Class members not parties to the adjudications, or substantially impair  
19 or impede their ability to protect their interests; and
- 20 c. Honda has acted or refused to act on grounds generally applicable to  
21 the Class, thereby making appropriate final and injunctive relief with  
22 respect to the members of the Class as a whole.

23 **FIRST CAUSE OF ACTION**

24 **(Violation of the Consumers Legal Remedies Act, Cal. Civ. Code § 1750, et. seq.)**

25 76. On behalf of themselves and all others similarly situated, Mr. Soto and Mr.  
26 Eagen reallege, as if fully set forth, each and every allegation set forth herein.

27 77. Honda is a “person” under Cal. Civ. Code section 1761(c).

28 78. Plaintiffs and the other Class members are “consumers” under Cal. Civ.  
Code section 1761(d).

1           79. Plaintiffs and the other Class members engaged in “transactions” under Cal.  
2 Civ. Code section 1761(e), including the purchase or lease of Class Vehicles from Honda  
3 and the presentation of Class Vehicles for repair or replacement of the defect to Honda.

4           80. As set forth herein, Honda’s acts, policies, and practices undertaken in  
5 transactions intended to result and which did result in the sale or lease of Class Vehicles,  
6 violate sections 1770(a)(5), (a)(7), (a)(9), (a)(14), and (a)(16) of the CLRA in that: (a)  
7 Honda represents that its goods have sponsorship, approval, characteristics, uses, or  
8 benefits which they do not have; (b) Honda represents that its goods are of a particular  
9 standard, quality, or grade, but are of another; (c) Honda advertises its goods with intent  
10 not to sell them as advertised; (d) Honda represents that a transaction confers or involves  
11 rights, remedies, or obligations which it does not have or involve; and (e) Honda  
12 represents that its goods have been supplied in accordance with a previous representation  
13 when they have not.

14           81. The existence of the defect is a material fact. The Plaintiffs and other Class  
15 members were unaware of the defect when they purchased the Class Vehicles.  
16 Consumers value reliability and dependability of automobiles and automobile parts,  
17 especially concerning vital protection of engine components in the Class Vehicles. Had  
18 they known of the defect, Plaintiffs and other Class members would not have purchased  
19 or leased the Class Vehicles, or would have done so only at lower prices.

20           82. Reasonable consumers expect, among other things:

- 21           a. New vehicles, including Class Vehicles, to be equipped with effective  
22 mechanisms for allowing the engine to effectively lubricate itself  
23 without compromising the integrity of the engine as a whole;
- 24           b. New vehicles, including Class Vehicles, to function properly for the  
25 duration of the warranty and that defects will be covered under  
26 warranty; and
- 27           c. New vehicles, including Class Vehicles, will not require a rebuild of  
28 the engine to replace defective seals or rings, or replacement of one  
quart of oil per 1,000 miles driven for the life of the vehicle.



1 83. Honda had a duty to disclose the defect in the Class Vehicles for various  
2 reasons, including that:

- 3 a. The defect's existence is contrary to Honda's representations and  
4 consumers' expectations;
- 5 b. Honda's concealment of the defect and/or Honda's failure to disclose  
6 the defect was likely to deceive reasonable consumers;
- 7 c. Honda intentionally concealed the defect with the intent to defraud  
8 consumers;
- 9 d. Honda's concealment of the defect harmed the Plaintiffs and other  
10 Class members; and
- 11 e. Honda never intended to fulfill its warranty obligation to repair or  
12 replace the defect or any of the damage caused thereby.

13 84. As a result of Honda's practices, Plaintiffs Soto and Eagen and the other  
14 Class members have suffered harm.

15 85. Pursuant to the provisions of Cal. Civ. Code § 1780, Plaintiffs seek an order  
16 enjoining Honda from the unlawful practices described herein, a declaration that Honda's  
17 conduct violates the CLRA, actual and punitive damages, and attorneys' fees and costs of  
18 litigation.

19 **SECOND CAUSE OF ACTION**

20 **(For unlawful, unfair, and fraudulent business practices under**  
21 **California Business and Professions Code § 17200 et seq.)**

22 86. Plaintiffs, on behalf of themselves and all others similarly situated, reallege  
23 as if fully set forth, each and every allegation set forth herein.

24 87. Honda's acts and practices, as alleged in this Complaint, constitute unlawful,  
25 unfair and/or fraudulent business practices, in violation of the Unfair Competition Law,  
26 Cal. Bus. & Prof. Code § 17200 et seq.

27 88. The business practices engaged in by Honda that violate the Unfair  
28 Competition Law include failing to disclose at the point of sale, the point of repair, or  
otherwise, that the engine is defective.

1 89. Honda engaged in unlawful business practices by violating the Consumers  
2 Legal Remedies Act (“CLRA”), Cal. Civ. Code § 1750 *et seq.*; the Magnuson-Moss  
3 Warranty Act, 15 U.S.C. § 2301 *et seq.*; and by engaging in conduct, as alleged herein,  
4 that breaches the express warranties.

5 90. Honda engaged in unfair business practices by, among other things:

- 6 a. Engaging in conduct that is immoral, unethical, oppressive,  
7 unscrupulous, or substantially injurious to Plaintiffs and other  
8 members of the Class;
- 9 b. Engaging in conduct that undermines or violates the stated policies  
10 underlying the CLRA and the Magnuson-Moss Warranty Act, each of  
11 which seeks to protect consumers against unfair and sharp business  
12 practices and to promote a basic level of honesty and reliability in the  
13 marketplace; and
- 14 c. Engaging in conduct that causes a substantial injury to consumers, not  
15 outweighed by any countervailing benefits to consumers or to  
16 competition, which the consumers could not have reasonably avoided.

17 91. Honda engaged in fraudulent business practices by engaging in conduct that  
18 was and is likely to deceive consumers acting reasonably under the circumstances.

19 92. As a direct and proximate result of Honda’s unfair and fraudulent business  
20 practices as alleged herein, Plaintiffs suffered injury-in-fact and lost money or property,  
21 in that they purchased or leased a vehicle they otherwise would not have purchased, paid  
22 for engine defect diagnoses, repairs, and oil replacements, and are left with Class  
23 Vehicles of diminished value and utility because of the defect. Meanwhile, Honda has  
24 sold and leased more Class Vehicles than it otherwise could have and charged inflated  
25 prices for Class Vehicles, unjustly enriching itself thereby.

26 93. Plaintiffs and Class members are entitled to equitable relief including  
27 restitution of all fees, disgorgement of all profits accruing to Honda because of its unfair,  
28 fraudulent, and deceptive practices, attorneys’ fees and costs, declaratory relief, and a  
permanent injunction enjoining Honda from its unfair, fraudulent, and deceitful activity.

**THIRD CAUSE OF ACTION**

**(For Breach of Written Warranty Under the Magnuson-Moss Warranty Act, 15 U.S.C. § 2301 *et seq.*)**

94. Plaintiffs, on behalf of themselves and all others similarly situated, reallege as if fully set forth, each and every allegation set forth herein.

95. Plaintiffs and the other Class members are “consumers” within the meaning of the Magnuson-Moss Warranty Act, 15 U.S.C. § 2301(3).

96. Honda is a “supplier” and “warrantor” within the meaning of sections 2301(4)-(5).

97. The Class Vehicles are “consumer product[s]” within the meaning of section 2301(1).

98. Honda’s express warranties are “written warrant[ies]” within the meaning of section 2301(6).

99. Honda breached the express warranties by:

- a. Extending a 3 year/36,000 mile New Vehicle Limited Warranty with the purchase or lease of the Class Vehicles, thereby warranting to repair or replace any part defective in material or workmanship at no cost to the owner or lessee;
- b. Extending a 5 years/60,000 mile Powertrain Limited Warranty with the purchase or lease of the Class Vehicles, thereby warranting to repair or replace any part defective in material or workmanship at no cost to the owner or lessee;
- c. Extending, per its legal obligation, the Federal Emissions-related Defects Warranty, thereby warranting to repair or replace any parts covered under that warranty at no cost to the owner or lessee;
- d. Selling and leasing Class Vehicles with engines that were defective in material and workmanship, requiring repair or replacement within the warranty periods, as well as the replenishment of engine oil at an excessive rate; and

1 e. Refusing to honor the express warranties by repairing or replacing,  
2 free of charge, the engine or any of its component parts.

3 100. Honda's breach of the express warranties has deprived the Plaintiffs and the  
4 other Class members of the benefit of their bargain.

5 101. The amount in controversy of the Plaintiffs' individual claims meets or  
6 exceeds the sum or value of \$25. In addition, the amount in controversy meets or  
7 exceeds the sum or value of \$50,000 (exclusive of interests and costs) computed on the  
8 basis of all claims to be determined in this suit.

9 102. Honda has been afforded a reasonable opportunity to cure its breach of  
10 written warranties, including when Plaintiffs and other Class members brought their  
11 vehicles in for diagnoses and repair of their defective engines.

12 103. As a direct and proximate cause of Honda's breach of written warranties,  
13 Plaintiffs and Class members sustained damages and other losses in an amount to be  
14 determined at trial. Honda's conduct damaged Plaintiffs and Class members, who are  
15 entitled to recover damages, consequential damages, specific performance, diminution in  
16 value of the Class Vehicles, costs, attorneys' fees, rescission, and/or other relief as  
17 appropriate.

18 **FOURTH CAUSE OF ACTION**

19 **(For Breach of Express Warranty Under Cal. Comm. Code § 2313)**

20 104. Plaintiffs, on behalf of themselves and all others similarly situated, reallege  
21 as if fully set forth, each and every allegation set forth herein.

22 105. Honda provided all purchasers and lessees of the Class Vehicles with the  
23 express warranties described herein, which became part of the basis of the bargain.  
24 Accordingly, Honda's express warranties are express warranties under California law.

25 106. The engines and their component parts were manufactured and/or installed  
26 by Honda in the Class Vehicles and are covered by the express warranties.

27 107. Honda breached the express warranties by:

28 a. Extending a 3 year/36,000 mile New Vehicle Limited Warranty with  
the purchase or lease of the Class Vehicles, thereby warranting to

1 repair or replace any part defective in material or workmanship at no  
2 cost to the owner or lessee;

- 3 b. Extending a 5 year/60,000 mile Powertrain Warranty with the  
4 purchase or lease of the Class Vehicles, thereby warranting to repair  
5 or replace any part defective in material or workmanship at no cost to  
6 the owner or lessee;
- 7 c. Extending, per its legal obligation, the Federal Emissions-related  
8 Defects Warranty, thereby warranting to repair or replace any parts  
9 covered under that warranty at no cost to the owner or lessee;
- 10 d. Selling and leasing Class Vehicles with engines that were defective in  
11 material and workmanship, requiring repair or replacement within the  
12 warranty periods, as well as the replenishment of engine oil at an  
13 excessive rate; and
- 14 e. Refusing to honor the express warranties by repairing or replacing,  
15 free of charge, the defective engine or any of its component parts.

16 108. Plaintiffs notified Honda of the breach within a reasonable time and/or were  
17 not required to do so because affording Honda a reasonable opportunity to cure its breach  
18 of written warranty would have been futile. Honda was also on notice of the defect from  
19 the complaints and service requests it received from Class members, from repairs and/or  
20 replacements of the defective engine or a component thereof, and through its own  
21 maintenance records.

22 109. As a direct and proximate cause of Honda's breach, Plaintiffs and the other  
23 Class members have suffered damages and continue to suffer damages, including  
24 economic damages at the point of sale or lease, that is, the difference between the value  
25 of the vehicle as promised and the value of the vehicle as delivered. Additionally,  
26 Plaintiffs and the other Class members either have incurred or will incur economic  
27 damages at the point of repair in the form of the cost of repair and replacement oil.  
28

1 110. Plaintiffs and the other Class members are entitled to legal and equitable  
2 relief against Honda, including damages, consequential damages, specific performance,  
3 rescission, attorneys' fees, costs of suit, and other relief as appropriate.

4 **FIFTH CAUSE OF ACTION**

5 **(For Unjust Enrichment)**

6 111. Plaintiffs, on behalf of themselves and all others similarly situated, reallege  
7 as if fully set forth, each and every allegation set forth herein.

8 112. Defendant has been, and continues to be, unjustly enriched, to the detriment  
9 of and at the expense of Plaintiffs and Class members, as a result of its conduct directed  
10 against Plaintiffs and the Class as a whole, including the collection of money from the  
11 sale of defective 2008, 2009, and 2010 Honda Accord vehicles and the avoidance of or  
12 refusal to incur expenses associated with repair of said defective vehicles.

13 113. Defendant has been unjustly benefitted through the unlawful or wrongful  
14 collection of money from the sale of defective 2008, 2009, and 2010 Honda Accord  
15 vehicles, and continues to so benefit to the detriment and at the expense of Class  
16 members.

17 114. Accordingly, Defendant should not be allowed to retain the proceeds from  
18 the benefits conferred up on it by Plaintiffs and Class members, who seek disgorgement  
19 of Defendant's unjustly acquired profits and other monetary benefits resulting from its  
20 unlawful conduct, and seek restitution for the benefit of Plaintiffs and Class members, in  
21 an equitable and efficient fashion as the Court deems just and proper.

22 115. Plaintiffs and Class members are entitled to the imposition of a constructive  
23 trust upon Defendant such that its unjust enrichment, unjust benefit, and ill-gotten gains  
24 may be allocated and distributed equitably by the Court to and for the benefit of Plaintiffs  
25 and Class members.

**PRAYER FOR RELIEF**

WHEREFORE, Plaintiffs, on Plaintiffs’ own behalf and on behalf of the Class, pray for judgment as follows:

- a. For an order certifying the Plaintiff Class and appointing Plaintiffs and their counsel to represent the Class;
- b. For an order awarding Plaintiffs and the members of the Class damages, consequential damages, specific performance, and/or rescission;
- c. For an order awarding Plaintiffs and the members of the Class restitution and disgorgement of profits, or other equitable relief as the Court deems proper;
- d. For an order enjoining Honda from continuing to engage in unlawful business practices as alleged herein;
- e. For an order awarding Plaintiffs and the members of the Class pre-judgment and post-judgment interest;
- f. For an order awarding Plaintiffs and the members of the Class reasonable attorneys’ fees and costs of suit, including expert witness fees; and
- g. For an order imposing a constructive trust over the revenues from sales of and resulting profits received by Defendant as a result of its wrongful conduct.
- h. For an order awarding such other and further relief as this Court may deem just and proper.

**DEMAND FOR JURY TRIAL**

Plaintiffs hereby demand a trial by jury on all claims so triable.

1 DATE: May 18, 2012

Respectfully submitted,

2  
3 **TERRELL MARSHALL DAUDT**  
4 **& WILLIE PLLC**

5 /s/ Beth E. Terrell

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Plaintiffs Alex Soto and Vince Eagen*

CERTIFICATE OF SERVICE

1  
2 I, Beth E. Terrell, hereby certify that on this 18th day of May 2012, I electronically  
3  
4 filed the foregoing **First Amended Class Action Complaint** with the Clerk of the Court  
5 using the CM/ECF system which will send notification of such filing of the following:

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15 DATE: May 18, 2012

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